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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

RONALD GENE MITTIE,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

Case No. 1:21-cv-00393-EPG

STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT; ORDER

(ECF No. 32)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of SIX THOUSAND SEVEN HUNDRED FOURTY-TWO DOLLARS 76/100 (\$6,742.76) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

1 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
2 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses
3 and costs to be made directly to Counsel, pursuant to the assignment executed by Plaintiff. Any
4 payments made shall be delivered and made payable to Plaintiff's counsel, Jonathan O. Peña.

5 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
6 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or
7 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any
8 and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA
9 attorney fees in connection with this action.

10 This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek Social
11 Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the
12 EAJA.

13 Respectfully submitted,

14 Dated: December 21, 2022

15 /s/ Jonathan O. Peña
16 JONATHAN O. PEÑA
Attorney for Plaintiff

17 Dated: December 21, 2022

18 PHILLIP A. TALBERT
19 United States Attorney
20 MATHEW W. PILE
Associate General Counsel
Office of Program Litigation
Social Security Administration

21 By: * Margaret Lehrkind
22 Margaret Lehrkind
23 Special Assistant U.S. Attorney
24 Attorneys for Defendant
25 (*Permission to use electronic signature
26 obtained via email on December 21, 2022).
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ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (ECF No. 32), IT IS ORDERED that fees and expenses in the amount of SIX THOUSAND SEVEN HUNDRED FORTY-TWO DOLLARS 76/100 (\$6,742.76) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **December 22, 2022**

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE